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**Subject: Analysis report and recommendations on parties' discussions of
the 2013-2014 interim planning process**

At the October 25-26, 2011 Board meeting, MRNF's Nord-du-Québec general directorate was asked to give a progress report on the activities related to developing the new generation of management plans in the *Agreement Concerning a New Relationship between le Gouvernement du Québec and the Crees of Québec* (referred to below as the *Agreement*) territory. During this presentation, a draft development and participation process for the new 2013-2018 tactical and operational planning was brought to the members' attention.

Following discussions ensuing from the presentation, a working group in charge of ensuring a better understanding of the proposed planning process, exploring avenues of harmonization and identifying recommended approaches was created. Three working sessions were held. The group was made up of appointed party representatives and the Board Secretariat.

On December 1, Board members met again to hear the working group's report and discuss progress made and issues arising from discussions on the subject. Recommendations to the parties were also identified.

The Board has been informed that the next meeting of the Sectorial Table on Forestry is scheduled for the New Year. The Board understands that the parties hope to come to an agreement on an interim process for a transitional forestry planning year in *Agreement* territory that is in keeping with the principles and objectives of the *Agreement's* adapted forestry regime.

The Board understands the urgency of having the parties agree in the short-term on an interim process for 2013 including the necessary harmonization measures to ensure there is no interruption in forestry activity in *Agreement* territory on April 1, 2013. It is hoped that an approach can be mutually agreed upon in order to give the parties the time needed to negotiate the necessary harmonization between the adapted forest regime and the proposed Sustainable Forest Development Act, so as to allow the long-term application of a renewed forestry regime in *Agreement* territory.

In keeping with its mandate, the Board wishes to make a positive contribution to the parties' discussions. Benefiting from various kinds of expertise linked to the *Agreement's* implementation and having facilitated discussions on potential harmonization measures for *Agreement* processes, the Board hereby submits the enclosed analysis document for your consideration.

This document presents issues identified in various discussions recently held by the Board and its working group on the interim forestry planning process. It also presents four recommendations that Board members would like to bring to the attention of Sectorial Table on Forestry members.

We hope this document will help the Sectorial Table on Forestry agree on implementation of a transitional planning process for 2013-2014, without prejudice to the parties' discussions.

Sincerely,



Albin Tremblay
Chairman of the Board

cc. Clément Gignac, Minister of Natural Resources and Wildlife
Matthew Coon-Come, Grand Chief, Grand Council of the Crees (Eeyou Istchee)

2013-2014 Interim Planning Process

Analysis of implementation-related issues and recommendations of the Cree-Québec Forestry Board

December 2011

Context

This analysis document was prepared by the Secretariat of the Cree-Québec Forestry Board (CQFB) following discussions on the 2013-2014 interim planning process held during workshops by the CQFB working committee and at the last Board meeting (December 1, 2011).

More specifically, discussions dealt with the first version of the interim planning process proposed by the MRNF – Nord-du-Québec (attached), allowing members to explore the various concepts presented and propose potential adjustments to best reflect the Paix des Braves reality. The meetings were held without prejudice to current interparty negotiations.

Harmonization vs. compensation

Stakeholders in the *Agreement* currently make a distinction between harmonization measures and compensation measures. Indeed the lines between compensation and harmonization are often blurred depending on the perspective taken, particularly in light of the unique cultural differences amongst the stakeholders.

For the MRNF and the forestry companies, harmonization refers to adjustments made to forestry-related planning and activities to limit their impact on the Cree way of life. For example, a planner can adjust the size of certain cutting blocks or buffer zones based on a tallyman's requests or plan his operations so as not to disturb the Crees' seasonal activities.

In contrast compensation is more of a measure offered to compensate tallymen for impacts arising from forestry operations on their trapline. For example, forestry companies sometimes respond positively to trappers' requests to clear snow from the roads in winter, build road sections to camps or water access ramps, supply firewood, etc.

However for the Cree tallymen, harmonization can be operational adjustments in the forest management plans or actions undertaken by the companies in order to harmonize forestry operations with their use of their trapline. Such actions could include the previous examples of snow clearing, road maintenance, access ramps or firewood supplies, etc. From their cultural perspective, these measures qualify as harmonization because the same equipment that is being utilized to harvest the forest is being used to enhance their ability to carry out their activities.

In contrast to this view of harmonization, their notion and understanding of compensation would be more in keeping with direct cash payments or “gifts” of equipment as was commonplace in the past. The important distinction is that compensation stems from the belief that some sort of payment is owed for the imposition that forestry places on the tallymen; whereas harmonization is more akin with the sharing of resources in the exploitation of the forest.

With these distinctions in mind it must be recognized that the provisions of Chapter 3 on forestry are set up to promote harmonization measures (from the perspective of the MRNF and forestry companies) between forestry planners and tallymen. However, section 3.65 leaves room for harmonization measures from the cultural perspective of the Cree tallymen with agreements by mutual consent between the Crees and forestry companies. Section 3.65 in its vagueness does not rule out the potential for compensation from the tallymen’s perspective as well.

Paralleling these measures and alongside the *Agreement*, the parties also concluded the Agreement Regarding Cree Traditional Activities Enhancement (Enhancement Program) to ensure that forestry-generated changes are reconciled with the practical organization of traditional Cree activities. This agreement ends in March 2012 and will have to be assessed by the parties to determine whether its renewal is relevant.

Since Chapter 3 has been implemented, the forestry companies responsible for planning respected the provisions of the *Agreement* and promoted harmonization with the Cree way of life. Some companies (from their perspective) also offered tallymen compensation, which was accepted by the tallymen as harmonization measures.

MRNF representatives point out that the MRNF is obviously a public organization subject to different rules from the private sector. As the MRNF aims to take responsibility for forest-related planning under its new forest

regime, it will clearly promote primarily harmonization from a planning perspective, as advocated by the *Agreement*.

Being conscious of the tallymen's notion of harmonization that is embedded in section 3.65, the Board is concerned with maintaining the tallymen's potential for reconciling forestry-generated changes with the organization of their traditional activities. The Board judges necessary to continue to offer this opportunity to the Cree tallymen, during the transitional year, either through a bipartite funding agreement or through the direct exchange between tallymen and forestry companies.

On this last point, Cree representatives suggested that MRNF could assume a liaison role to facilitate the contact between tallymen and the companies that will conduct forestry operations. They also want to ensure that the Cree Joint Working Group members and the tallymen are kept informed of all third party (forestry companies or contractors) operations within the territory.

Board recommendation

The Board recommends that the parties extend the Enhancement Program, or conclude a new agreement, as soon as possible (as of spring 2012) to ensure that the tallymen have access to a program that enhances traditional activities in the context of the 2013-2014 interim planning process.

The Board recommends that the parties maintain contact between the tallymen and the forestry companies that are active in the territory to offer them the opportunity of reaching agreements by mutual consent, if applicable. The parties should also convene of a liaison mechanism to facilitate the exchange of operational information among stakeholders.

Strategic use of '*backlog*'

When forestry companies do not harvest some of the volumes included in their planning, they accumulate what those in the forestry industry call a '*backlog*'. Companies have 15% leeway in reporting these volumes from one year to the next. Any amount over and above this 15% can be reallocated or maintained according at the Minister of Natural Resources and Wildlife's prerogative.

As the generation of 2008-2013 general forestry management plans draws to an end, forestry companies have accumulated more than 1.4 million cubic meters of unharvested volumes according to a recent MRNF estimate. For reference purposes, forestry companies' annual allocation throughout *Agreement* territory is approximately 2.7 million cubic meters.

Cree authorities have clearly expressed their concern that the *backlog* could be used in an accelerated way in 2012-2013, either by the forestry companies who accumulated the volumes or under accreditation agreements through which the MRNF allocates the volumes to other companies. The MRNF points out that all harvesting, including the *backlog*, is subject to the maximum annual harvesting rates authorized under the *Agreement*. At any rate, current market conditions do not point to such accelerated harvesting

Further, through its examination of recent amendments to the territory's different GFMPs, the Board notes the sensitivity surrounding certain strategic issues such as Cree proposals for protected areas, the woodland caribou recovery plan and subjecting certain roads to the environmental and social assessment process.

The MRNF affirms that it has managed backlog strategically in the recent years, ensuring that reduced demand for timber volumes permits reduced harvesting pressure in sensitive sectors. This strategic management of backlog volumes should be repeated in the transition year until the parties have agreed on concrete directions for proposed protected areas, areas used intensively by woodland caribou and roads that are subject to the environmental assessment process.

The other sectors planned but not harvested in 2008-2013 and not located in sensitive areas represent an opportunity since the tallymen have already been consulted in their regard and, for the most part, their access roads have already been developed. Carrying them over into the interim planning, when possible, would show that MRNF planners are acting in keeping with previous plans.

Board recommendation

The Board recommends maintaining the strategic management of *backlog* volumes advocated by the MRNF to avoid sensitive sectors.

Participation process start-up date

Under the current planning process, forestry companies usually begin the participation process with Cree tallymen in January before actual implementation of the annual plan. The process requires one or two meetings, is overseen by the joint working groups and targets the sectors included in the current general plan.

For the 2012-2013 annual plan, the last operating year under the 2008-2013 GFMP, the companies expect to meet with the tallymen in January 2012.

For the 2013-2014 interim planning process, the MRNF wishes to conduct planning in 2012 so as to be ready in time for the option exercise, a key stage in its new forestry regime, where forestry companies holding supply guarantees indicate whether they wish to exercise their option on the volumes included in the proposed planning.

Consequently, the MRNF proposes starting the participation process with the Cree tallymen in January 2012 alongside the companies' process. The MRNF's concern is due to time constraints for developing the 2013-14 plans also to limit tallymen's travel time by planning simultaneous sessions with the industry.

The Cree representatives recommended separate planning sessions. They discussed it with the Cree JWG members, and the JWGs did not welcome the idea of simultaneous planning. They were of the opinion that separate planning sessions was the best option. The Cree representatives and JWG members feel that a month's delay is necessary between the 2012-2013 and 2013-2014 exercises.

During Board discussions, the MRNF specified that it does not feel that a simultaneous approach need be applied uniformly to all tallymen. It would like to have the flexibility to adjust the approach in keeping with each tallyman's preference.

The MRNF indicated that its planners foresee anyway a first meeting with the tallymen as they become part of the industry participation mechanisms for the 2012-2013 annual plan. At this time, they will have to include in the industry plan operational roads to be built during the 2012-2013 operations, in prevision for 2013-2014 forestry harvesting.

The Board must remind one of the main findings of its assessment of the 2002-2008 Agreement's implementation, namely, the problem of dovetailing

with the planning mechanism for the 2008-2013 plans. The instructions arrived late and quickly, creating confusion among the participants involved in the planning. The Board wants to be sure not to let the same problems arise in the interim process.

It will be important to ensure that the parties have sufficient time to devise clear guidelines and to ensure that planning process participants (especially those of the joint working groups) are properly prepared. Just as it did for the 2008-2013 planning exercise, the Board offers its support to the parties.

Board recommendation

Considering the difference of opinion on this matter, the Board recommends that this matter be brought to the Sectorial Table on Forestry for resolution.

Regardless of the resolution from the Sectorial Table, the Board suggests that the MRNF planners join the industry 2012-2013 planning exercise to establish initial contact and ensure a coordinated transition.

The Board also recommends that the parties take the time to forward clear guidelines and ensure that planning process participants (especially those of the joint working groups) are properly prepared.

The monitoring processes

Although the MRNF has tried to produce an interim planning process that integrates the *Agreement's* concepts as far as possible, it has restricted the monitoring mechanisms for the 2013-2014 interim planning process to a single activity report. Clearly, the *Agreement* stipulates further follow-up mechanisms, including the potential involvement of JWG members.

Agreement stakeholders have, however, admitted that JWG involvement in follow-up mechanisms has proved difficult to achieve over time. The Board's 2002-2008 assessment highlighted weaknesses in this regard, showing that the *Agreement's* provisions governing monitoring were only partly implemented.

After discussions, the Board and working committee agreed that the transitional year was not really the right time to solve more systemic

monitoring problems linked to the *Agreement*. The Board considers that the subject of monitoring and its past deficiencies and future challenges should be addressed by the Sectorial Table on Forestry.

Since follow-up occurs only during the course of and after an operating year and since the transitional year identified is 2013-2014, the Sectorial Table on Forestry will still have time to agree on adapted approaches and follow-up mechanisms that could be applicable to the transitional year.

Once again, the Board offers the parties its support since it made monitoring the *Agreement's* objectives a priority through the strategic directions agreed on at its last meeting.

Board recommendation

The Board suggests leaving the door open, in the proposed interim planning mechanism, to introduce adapted monitoring mechanisms agreed on in the context of the Sectorial Table on Forestry discussions.

Other concerns of a technical nature

Board and working committee discussions regarding the interim planning process proposed by the MRNF for the 2013-2014 transitional year also addressed concerns of a technical nature. In most cases, the representatives of the parties present at both tables found middle ground or referred more controversial topics to the Sectorial Table on Forestry.

The Board supports the parties' efforts in this sense and has promoted reaching consensus whenever possible. The following is a summary of the themes touched on.

To begin with, participants discussed at length the concept of the leeway needed within the planning process. This is a "cushion" planners leave in planning more cutting blocks than the allowable maximum in case access is made impossible to certain blocks earmarked for a given operating year. The current standard is to allow +25% planning leeway. Clearly, harvesting would never exceed the 100% allowed.

MRNF planners have requested an up to 50% leeway because they are new to planning in this context and want to avoid numerous amendments in case of problems. After checking, Cree representatives made a counter-offer of

35% as long as the MRNF supplies an operating calendar with its planning showing the expected operating seasons and indicating the order of priority for the cutting blocks presented in the plan. In Board discussions, the parties' representatives indicated their consensus on applying the 35% counter-offer.

Working committee discussions also allowed participants to explore the technical solutions to eventually sharing the trappers' planning support maps with the MRNF. This point remains contentious since the MRNF cannot guarantee that these maps would not be accessible to the public under the *Access to Information Act* if they are in its possession.

After exploring possible solutions, the parties identified a potential geomatic route. MRNF planners could access the data via a web server. Since the data would be on a website hosted by the Cree, the public access issue would not apply. The parties have to agree on access and confidentiality clauses for the solution to be operational.

Planning support maps are concrete tools allowing Cree knowledge and land use to be taken into account. The Board is encouraged by the progress the parties have made and would like them to come to a conclusion so that MRNF planners can access the maps, thereby enhancing the tallymen's participation mechanism.

Another technical point discussed is an amendment to the interim plan already envisaged for fall 2012 in the process proposed by the MRNF. Since inventories for silvicultural treatments can be carried out only in summer 2012, the MRNF foresees tabling an amendment to the plan in fall 2012 to introduce the silvicultural work.

The working committee focussed on this aspect, seeing the programmed amendment as an opportunity for planners to get feedback from and give feedback to the tallymen. Further, the committee suggested using this opportunity to link up with the industry's 2012-2013 planning, which at the time would be under way, to specify where 2013-2014 operations would begin and carry over to 2013-2014 planning certain blocks that the industry would have been unable to harvest in 2012-2013, the goal being, once again, to avoid multiple amendments to the plan.

The MRNF members of the working committee also questioned the need for the joint working groups to table a new "30-day report" analysis of this programmed amendment. However, it was mentioned that the JWG's 30-day report is indispensable since it is the only tool constituting a mechanism

allowing outside observers (such as the JWG coordinators, the CQFB and potentially a mediator in case of conflict) to understand the context.

Finally, during Board and working committee discussions, Cree representatives were not in favour of the use the new regime's vocabulary in the interim process proposed by the MRNF. For them, expressions like "TGIRT" (Integrated land and resource management panels) and "PAFI" (Integrated forest management plan) refer to elements of an Act whose harmonization has not yet been ensured and negotiated under the Paix des Braves Agreement.

MRNF representatives pointed out that they must comply with a certain legal framework. Be that as it may, the parties agreed that this issue could only be resolved at the Sectorial Table on Forestry.

- Amendments to the PAFI-O 13-14**
20. Amendments to the PAFI-O 13-14 are subject to the same process as described above. An amendment will be made in the fall of 2012, to add non-commercial treatments to the PAFI-O 13-14.
- Monitoring of the PAFI-O 13-14**
21. The MRNF prepares an activity report on the volumes of timber harvested and compliance with the standards and conditions set out in the Agreement.
22. If a natural disaster should occur during 2013-2014, the recuperation plan will be prepared in compliance with the Agreement on operating rules and modalities for salvage logging in the territory under the QCNRA. Plans will be presented to the tallymen and will subsequently be added to the PAFI-O 13-14.

2012					2013								2014								
A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M

To be discussed: Transfer of intervention sectors of AFMP 2012-13 to the PAFI-O 2013-14.

Updated November 18, 2011

Working document